

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE BOARD OF NURSING

In the Matter of the Nursing License of
Shelley M. Turner, L.P.N.

**FINDINGS OF FACT,
CONCLUSIONS**

AND

License No. 43574-3

RECOMMENDATION

The above-entitled matter came on for prehearing conference before Administrative Law Judge Barbara L. Neilson commencing at 1:30 p.m. on Tuesday, July 28, 1998, at the offices of the Board of Nursing in Minneapolis, Minnesota. Louis Hoffman, Assistant Attorney General, 525 Park Avenue, Suite 500, St. Paul, Minnesota 55103-2106, appeared on behalf of the Minnesota Board of Nursing. There was no appearance by the Respondent, Shelley M. Turner. The record closed on July 29, 1998, upon receipt of a letter filed by the Board of Nursing.

NOTICE

This Report is a recommendation, not a final decision. The Board will make the final decision after a review of the record. The Board may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact the Minnesota Board of Nursing, Suite 500, 2829 University Avenue, S.E., Minneapolis, Minnesota 55414, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF THE ISSUE

The issue in this case is whether or not disciplinary action should be taken against the L.P.N. license of the Respondent in accordance with Minn. Stat. §§ 148.261 (1997).

Based upon the record in this matter, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On June 25, 1998, a Notice of and Order for Prehearing Conference and Hearing in this matter was mailed to the Respondent at her last known address of 1520 Western Avenue, Faribault, Minnesota 55021.

2. The Notice of and Order for Prehearing Conference and Hearing that was mailed to the Respondent scheduled a prehearing conference for July 28, 1998, at 1:30 p.m. The Notice of and Order for Prehearing Conference and Hearing contained the following statement:

Respondent is urged to attend; failure to do so may prejudice Respondent's rights in this proceeding and any subsequent proceedings related to this matter, may result in the allegations contained herein being taken as true, and may be the basis for disciplinary action against Respondent.

3. The Respondent sent counsel for the Board a letter prior to the Prehearing Conference. In the letter, which was dated July 20, 1998, the Respondent indicated that she had received the Notice of Prehearing Conference and Hearing, expressed dissatisfaction with the manner in which the allegations had been handled, said that she was not willing to put herself through another proceeding, and stated that she had decided that she would no longer pursue a nursing career.

4. Counsel for the Board sent the Respondent a letter in response dated July 24, 1998, in which he indicated among other things that "[t]he prehearing conference at 1:30 p.m. on July 28, 1998, will proceed" and warned the Respondent that, "[s]hould you fail to appear, the Board of Nursing Review Panel will request that Judge Neilson conclude that the allegations made by the Panel are true and recommend to the Board that it take disciplinary action against your license."

5. The Respondent did not appear at the July 28, 1998, Prehearing Conference. The Respondent did not contact the Board or the Administrative Law Judge to request a continuance. No Notice of Appearance was filed by Respondent in this matter.

4. The allegations set forth in the Notice of and Order for Prehearing Conference, having been deemed proved and taken as true, are hereby incorporated into these Findings by reference.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Minnesota Board of Nursing and the Administrative Law Judge have subject matter jurisdiction herein pursuant to Minn. Stat. §§ 214.10, 214.103 and 14.50 (1997).

2. The Respondent was given timely and proper notice of the Prehearing Conference in this matter.

3. The Minnesota Board of Nursing has complied with all relevant substantive and procedural requirements of statute and rule.

4. Under Minn. Rule 1400.6000 (1997), the Respondent is in default as a result of her failure to appear at the scheduled prehearing conference.

5. Under Minn. Rule 1400.6000 (1997), when a party defaults, the allegations and the issues set out in the Notice of and Order for Prehearing Conference and Hearing may be taken as true and deemed proved. The Administrative Law Judge therefore takes those allegations and issues as true and deemed proved.

6. Based upon the facts set out in the Notice of and Order for Prehearing Conference and Hearing, the Respondent has violated Minn. Stat. §§ 148.261, subd. 1 (5) and (10), and is subject to disciplinary action by the Minnesota Board of Nursing.

7. An order by the Board prescribing disciplinary action against the Respondent is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED: that disciplinary action be taken against the L.P.N. license of Shelley M. Turner by the Minnesota Board of Nursing.

Dated: July 30, 1998

	<hr/> BARBARA L. NEILSON Administrative Law Judge
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Reported: Default.

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the Board of Nursing is required to serve its final decision upon each party and the Administrative Law Judge by first-class mail.